



WISCONSIN DEPARTMENT OF ADMINISTRATION

**REVIEW of the REVISED COOPERATIVE PLAN
under Section 66.0307, Wis. Stats.**

between the

**TOWNS OF CLAYTON and VINLAND
WINNEBAGO COUNTY**

October 16, 2020

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STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION

Tony Evers, Governor
Joel Brennan, Secretary
Dawn Vick, Division Administrator

This determination constitutes the Department's review of the revised and resubmitted cooperative plan between the Towns of Clayton and Vinland under s. 66.0307, Wis. Stats. The Department previously reviewed the cooperative plan (Original Cooperative Plan) on July 16, 2020 and found that three statutory standards were not met. As a result, the Department returned the Original Cooperative Plan pursuant to s. 66.0307(5)(d), Wis. Stats., recommending that the Communities resubmit it with revisions and additional information relating to the unmet standards. On September 17, 2020, the Communities did resubmit the Revised Cooperative Plan with revisions and additional information.

It is the DETERMINATION OF THE DEPARTMENT OF ADMINISTRATION that when considering the Revised Cooperative Plan under Section 66.0307(5), Wis. Stats.:

Standard 1, Content of Cooperative Plan Sufficiently Detailed – Met

Standard 2, Cooperative Plan Consistent with Comprehensive Plans and
State and Local Laws and Regulations – Met

Standard 3, Adequate Provision for Municipal Services – Previously Met

Standard 4, Provision for Affordable Housing – [Repealed & Inapplicable]

Standard 5, Compactness of Plan Territory – Met

Standard 6, Planning Period is Consistent with Cooperative Plan – Previously Met

The facts and analysis supporting these findings are discussed in the body of this determination. The Determination of the Department of Administration is as follows:

The proposed cooperative plan is APPROVED.

Amendments or revisions to the Plan can only occur with the approval of the Communities and with the concurrence of the Department of Administration.

Dated this 16th day of October, 2020,

Dawn Vick
Administrator, Division of Intergovernmental Relations

NOTICE OF APPEAL RIGHTS

This Notice sets forth the requirements and procedures for obtaining judicial review of the attached decision of the Department. Any person aggrieved by a decision of the Department can seek judicial review of the decision under Wis. Stats. §§ 66.0307(9) and 227.52, *et seq.* A petition for judicial review must be filed in the Circuit Court within 30 days of the date of this decision. In addition, a copy of the petition for judicial review must also be served on the Department either personally or by certified mail within 30 days of the date of the decision. A petition for judicial review shall name the Department of Administration as the Respondent. Petitions for judicial review should be served on the Department's Secretary, Joel Brennan, at the following address:

Secretary Joel Brennan
Wisconsin Department of Administration
c/o DOA, Municipal Boundary Review
101 East Wilson Street, 9th Floor
PO Box 1645
Madison, WI 53701

Persons filing a petition for judicial review are advised to closely examine all provisions of Wis. Stat. §§ 227.52 and 227.53 to ensure strict compliance with the statutory requirements. The summary of appeal rights in this notice should not be relied upon as a substitute for the careful review of all applicable statutes, nor should it be relied upon as a substitute for obtaining the assistance of legal counsel.

Executive Summary

The Department previously reviewed the Original Cooperative Plan on July 16, 2020 and found that three of five statutory standards were not met. As a result, the Department returned the Original Cooperative Plan pursuant to s. 66.0307(5)(d), Wis. Stats., recommending that the Communities resubmit it with revisions and additional information relating to the unmet standards.

Because this needed information has now been provided, the Department finds that all statutory standards are now met and this Revised Cooperative Plan is approved.

Approval Criteria Applicable to the Department

A cooperative plan shall be approved by the Department if the Department determines that each of the review criteria in s. 66.0307(5)(c), Wis. Stats., is met. Nothing in the statutes authorizes the Department to waive any of these requirements.

This determination is limited to the items previously found not met. It is not a re-review of the Cooperative Plan in its entirety. Therefore, both this determination and the Department's previous determination on July 16, 2020 should be read together to constitute the Department's full review.

The following paragraphs describe how these review criteria apply to the Cooperative Plan. It is important to understand that this review document is not a complete restatement of the Plan. Those wanting to learn specific details, provisions, nuances, and conditions should look to the text of the Cooperative Plan itself, which is available from the communities as well as on the Department of Administration's website at: <http://doa.wi.gov/municipalboundaryreview>.

- (1) *The content of the plan under sub. s. 66.0307(3)(c) to (e) is sufficient to enable the Department to make the determinations under subds. 2 to 5. s. 66.0307(5)(c)1., Wis. Stats.***

As mentioned, this Cooperative Plan is limited in scope and requires little in terms of action items. The few provisions that the Plan does contain are generally sufficiently detailed, complete, and free of ambiguity. Two exceptions were a lack of information provided to show consistency between the Cooperative Plan and the Communities' comprehensive plans and lack of specificity about whether the boundary line between the Communities is maintained during the planning period.

The Department had also suggested that since the intent of this Cooperative Plan is to generally maintain the status quo between the Communities should Clayton or a portion of Clayton incorporate as a village, that the Communities may want to

strengthen the Plan's successor clause in Section 15(h) to include the possibility of a new village. This was done in the resubmitted plan.

Since the needed information has now been provided, specifics of which are described below, the Department finds that the Revised Cooperative Plan provides sufficient content and detail to find the standard in s. 66.0307(5)(c)1, Wis. Stats. is met.

(2) *Is the cooperative plan consistent with each participating municipality's comprehensive plan and with current state laws, municipal ordinances and administrative rules that apply to the territory affected by the plan?*
s. 66.0307(5)(c)2., Wis. Stats.

The Original Cooperative Plan stated that both Communities have comprehensive plans but provided no specifics on how or whether the Cooperative Plan is consistent with these plans. This Revised Cooperative Plan provides minimal but sufficient information on the Communities' comprehensive plans and these plans' consistency with this Cooperative Plan.

The *Town of Clayton Comprehensive Plan 2016-2036* is consistent with the Revised Cooperative Plan in several respects:

- Recommends seeking border agreements with neighboring municipalities.
- Encourages Clayton to consider incorporation as a strategy to maintain the current boundaries of the town and provide urban services, and
- Encourages Clayton to consider developing boundary agreements as a strategy for providing urban services.

The *Town of Vinland Comprehensive Plan 2007-2026* is consistent with the Revised Cooperative Plan in the following respects:

- Recommends pursue necessary means for promoting regional intergovernmental cooperation.
- Provide governmental services in a cooperative, efficient, environmentally sound and socially responsible manner, and to work towards boundary agreements with neighboring entities.
- Recommends that the Town meet with surrounding communities to discuss boundary agreements to assure a long-term planning area.
- Recommends that the Town will meet with adjacent municipalities to agree on where each municipality will provide services.

Because the needed information regarding consistency with comprehensive plans has been provided, the Department determines that this Revised Cooperative Plan is consistent with the Communities' comprehensive plans and that the standard in s. 66.0307(5)(c)2., Wis. Stats. is met.

- (3) ***Is adequate provision made in the cooperative plan for delivery of necessary municipal services to the territory covered by the plan? s. 66.0307(5)(c)3., Wis. Stats.***

Standard previously met.

- (5) ***The shape of any boundary maintained or any boundary change under the cooperative plan is not the result of arbitrariness and reflects due consideration for compactness of area. Considerations relevant to the criteria under this subdivision include quantity of land affected by the boundary maintenance or boundary change and compatibility of the proposed boundary maintenance or boundary change with natural terrain including general topography, major watersheds, soil conditions and such features as rivers, lakes and major bluffs. s. 66.0307(5)(c)5., Wis. Stats.***

The Department requested clarification in its previous July 16, 2020 determination on whether the Plan maintains the boundary between Clayton and Vinland for the duration of the planning period. Language was added to Section 9 of the Revised Cooperative Plan to clarify that the Plan does maintain the existing boundary between the Communities during the Planning period. As a result of this added language, the Department finds the standard in s. 66.0307(5)(c)5., Wis. Stats. to be met.

- (6) ***Any proposed planning period exceeding 10 years is consistent with the plan. s. 66.0307(c)6., Wis. Stats.***

Standard previously met.